



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

March 7, 2006

The Honorable Bob Odell
Energy and Economic Development Committee
Room 102, Legislative Office Building
Concord, NH 03301

RE: HB669-FN, setting the laboratory fee for certain environmental samples.

Dear Chairman Odell:

The Department of Environmental Services (DES) supports the amendment to HB669-FN that establishes a committee to study state laboratory water tests and fees for such tests collected by DES.

RSA 131:3-a sets the schedule of tests and fees the DES laboratory is allowed to charge for both the analyses required by the federal Safe Drinking Water Act (SDWA) and all other tests offered to the lab's public clients. This includes tests for programs such as the Volunteer Lake Assessment Program (VLAP), Volunteer River Assessment Program (VRAP), and public swimming beach and pool samples, as well as those tests for special projects and private homeowners. Since RSA 131:3-a was last amended in 1999, the lab has added new capabilities to offer testing for parameters such as Haloacetic acids and Diquat that are not included on the current fee schedule, while other tests are no longer performed or are bundled in a different way. The fee schedule also needs to be updated to reflect the Legislative Budget Assistance's (LBA) recommendation that fees charged to all the lab's clients be on a single schedule.

Since the lab's fee schedule was last reviewed, many changes have occurred with the net result of increased laboratory operating costs:

1. The cost of laboratory consumables, equipment and equipment repairs increases each year. Although the lab works with the Department of Administrative Services (DAS) to negotiate pricing on as many items as possible, the overall cost trend is upward.
2. Although lab staffing levels have remained at 1999 levels or below, salaries and especially benefits have increased substantially.
3. The laboratory wing at 29 Hazen Dr recently underwent a major addition/renovation project. The DES lab pays rent to the State for its share of lab space; DES incurred a 50% rent increase in FY 2006.
4. The lab is frequently asked to undertake new projects in response to federal, State or Department program initiatives, usually with no associated funding source.

5. The laboratory is accredited by the National Environmental Laboratory Accreditation Conference (NELAC). The costs incurred to meet the quality assurance requirements for this prestigious accreditation are expensive.

HB135, Chapter 1:1, Laws of 2005 created a commission to study funding sources for State laboratories. During the meetings, DES provided resource, financial and test information to the study committee. In summary, the DES lab is staffed by 23 permanent employees and occupies approximately 21,000 square feet. The lab receives an average of 35,000 samples per year; this results in its performing over 100,000 analytical tests annually. Figure 1 and Table 1 show the percentage of samples received from each of these clients in fiscal years 2001 thru 2005.

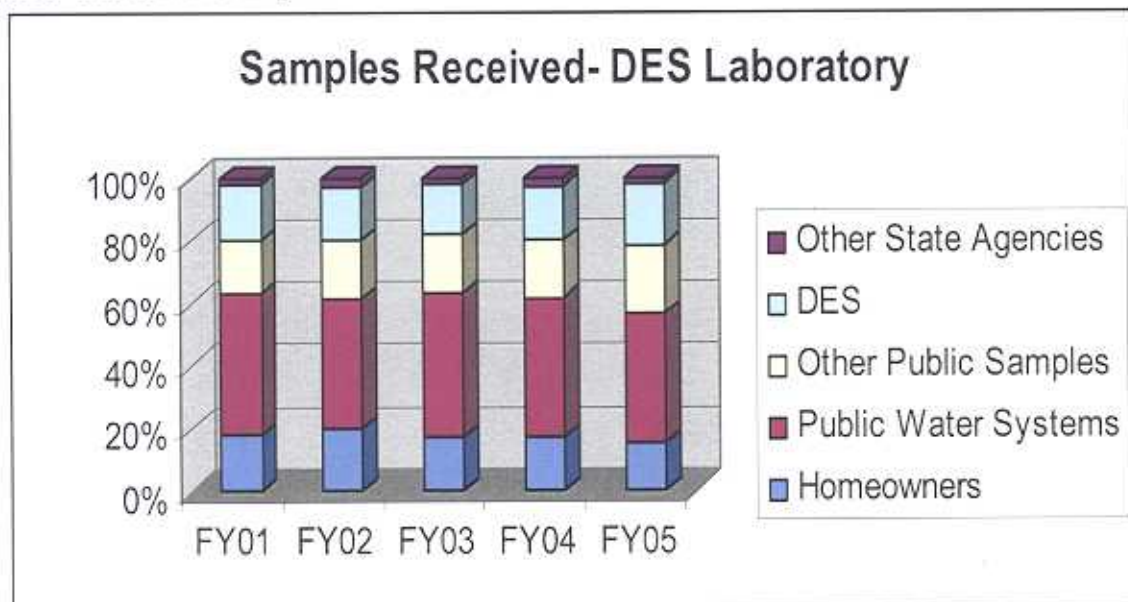


Figure 1

SAMPLES RECEIVED- DES LABORATORY					
	FY01	FY02	FY03	FY04	FY05
Homeowners	6,347	6,890	5,957	6,172	5,395
Public Water Systems	15,818	14,484	16,470	16,410	14,589
Other Public Samples	5,945	6,582	6,598	6,833	7,714
DES Programs	6,299	6,129	5,690	6,261	6,976
Other State Agencies	751	964	626	939	551
TOTAL	35,160	35,049	35,341	36,615	35,225

Table 1

The DES Laboratory is not self-sufficient nor does it receive funding from grants directly. The lab's operating budget is a combination of general fund appropriations and intra-agency billings. Revenue received from intra-agency billings offsets the lab's operating budget and revenue received from public fees is deposited directly into the

General Fund. Figure 2 shows revenue sources and expenditures for the DES Lab for fiscal years 2001 to 2005 while Figure 3 shows the percentage of revenue received from each source for the same period.

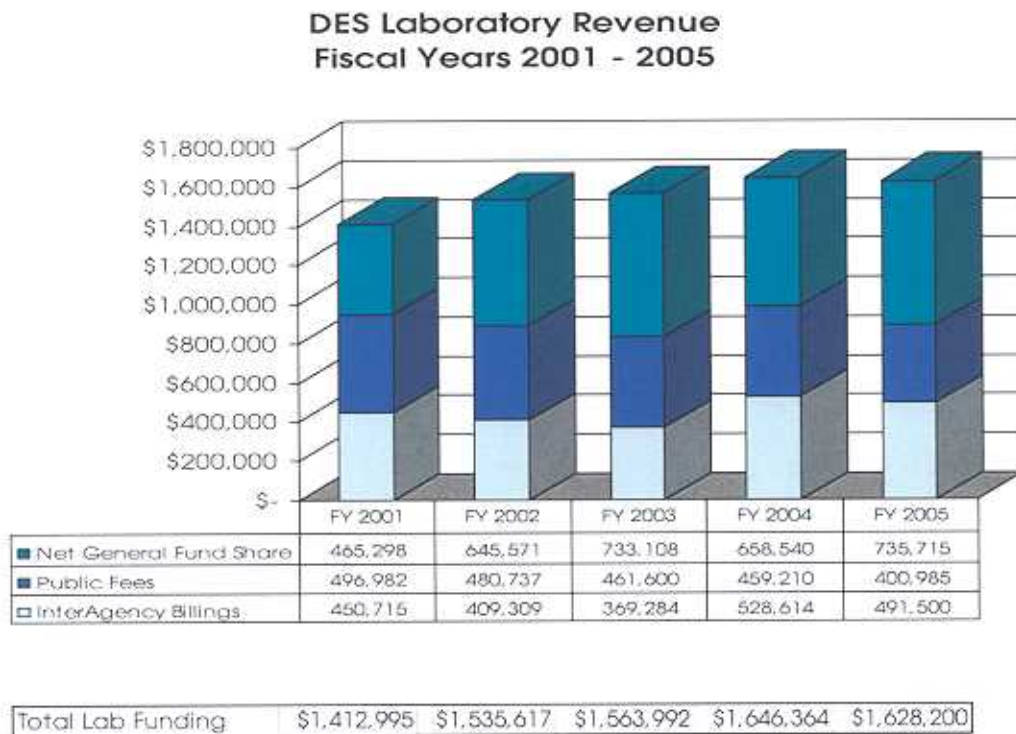


Figure 2

DES Laboratory Percent of Revenue by Source

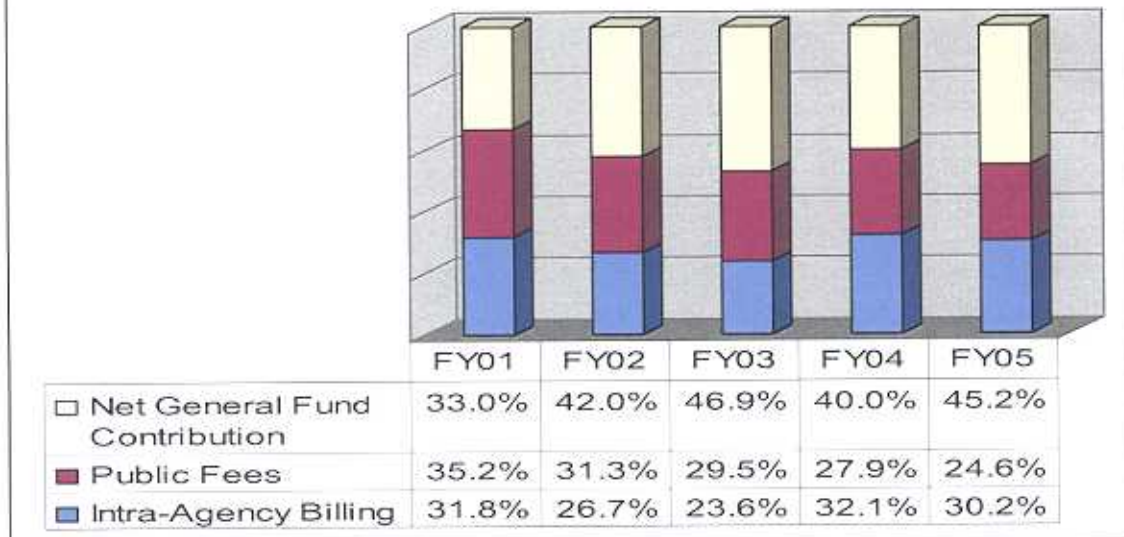


Figure 3

The DES Laboratory bills all programs and agencies for each sample analyzed. The invoices from DES programs may be paid from federal grant or state fee sources. Costs are calculated on an annual basis using an in-house cost allocation procedure. This methodology is the basis for determining fees charged Department programs and other state agencies and is also the basis for suggesting the fee schedule set forth in RSA 131:3-a for public water supplies and homeowner testing.

Intra-agency revenue from federal and state grants is used to offset the lab's operating budget. Fees collected from the lab's public or private clients are deposited in the general fund with the exception that 50 per cent of every analysis fee is reserved in a special nonlapsing fund used for the purchase or replacement of laboratory equipment. Having the fund is critical for the lab's operation as there is no appropriation in the lab's operating budget for equipment. The Lab Equipment Fund is used to purchase lab analysis instrumentation to implement required analyses and meet detection limits, to purchase automation equipment to speed up testing and allow for unattended processes, and for equipment repair and maintenance agreements. A major upcoming expenditure to be paid from the Laboratory Equipment Fund will be to equip a Clean Room for analyzing metals at extremely low levels; funding to build the infrastructure for the Clean Room was appropriated in the FY 2005 Capital Budget.

Fees set in RSA 131:3-a and collected by the DES Laboratory from public or private homeowners were last updated effective August 30, 1999. Fees the lab charges the Department or to other state agencies were last updated October 1, 2003.

The lab currently tracks 494 inventoried pieces of furniture and equipment (value of \$100 or greater with a life expectancy of greater than 1 year). The inventory total for the lab is just over \$2.2 million. Table 4 shows a projected amount needed from FY 2006

to FY 2010 to purchase or replace equipment, maintain current service agreements and repair equipment. It does not factor into account the costs for service agreements on new equipment or for inflation.

Table 4

Projected Expenses from Lab Equipment Fund					
	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Replace Major Equipment	\$ 578,000	\$ 106,000	\$ 48,000	\$ 234,000	\$ 58,000
PCs/Monitors	3,000	5,000	3,000	5,000	3,000
Maintenance Agreements	107,000	107,000	107,000	107,000	107,000
Equipment Repair	20,000	20,000	25,000	25,000	25,000
Minor Equipment	20,000	20,000	20,000	20,000	20,000
New Major Equipment	180,000	75,000	TBD	TBD	TBD
LIMS		5,000			350,000
Clean Room		550,000			
Clean Room Maintenance		TBD	TBD	TBD	TBD
TOTAL	\$ 908,000	\$ 888,000	\$ 203,000	\$ 391,000	\$ 563,000

Lab Equipment Fund

Beginning Balance- July 1	1,052,131	564,131	96,131	313,131	342,131
Anticipated Revenue	<u>420,000</u>	<u>420,000</u>	<u>420,000</u>	<u>420,000</u>	<u>420,000</u>
Ending Balance- June 30	\$ 564,131	\$ 96,131	\$ 313,131	\$ 342,131	\$ 199,131

Approximately \$420,000 is added to the Laboratory Equipment Fund per year. Assuming level revenue for each of the next 5 years, at the end of FY 2010 the balance in the account would be \$199,131. The DES lab knows that it will have to add new capabilities once the State and/or EPA finalizes MCLs for new contaminants or changes are made to the SDWA, and must respond to the Department's program needs and technology improvements. Currently, these are unknown expenses for which a cushion needs to be maintained.

In their final report dated October 14, 2005, the commission created by HB 135, proposed several recommendations for consideration for future legislative action. There are 4 recommendations relevant to the DES laboratory:

1. Some lab fees are in rule, while others are in law. To be consistent, a uniform process should be used to set fees across all relevant agencies.
2. A mechanism should exist by which the legislature should track the balance and the use of funds in the DES equipment fund.
3. Laboratory tests are an important part of state service and mission. Some important tests are only done by these labs, and nowhere else in the State. It is vital to maintain the labs and the skilled personnel to operate them. For the legislature to know the full costs this operation imposes, there should be separate PAUs for the lab operations. These

should not be blended with other department costs. Where there is a revenue side, it should be clearly delineated so that the charges can be a true reflection of the costs.

4. Agencies should be required to track the number and cost of each test.
5. Agencies should be required to continue to track the source of funds and to review, at least biennially, the fees which they set for each test.

The DES lab currently has a separate PAU where all costs and revenues are delineated. The lab annually tracks funding sources, the number of tests performed and calculates a cost per test. The LBA reviews DES's financial practices including the Department's use of the Laboratory Equipment Fund. DES agrees with the committee recommendation that fees charged should be review at least biennially.

DES supports this legislation to establish a committee to study state laboratory water tests and fees and hopes that at least some of the recommendations made by the HB 135 study committee can be further considered within the scope of the new committee.

If you have any questions or need additional information, please contact Assistant Commissioner, Michael Walls, Laboratory Administrator, Patricia Bickford or me at 271-3503.

Sincerely,

Michael P. Nolln
Commissioner

cc: Rep. Gargasz
Rep. Ryder
Rep. Camm
Rep. Weyler